

ORIGINAL

FILED

January 6 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0311

STATE OF MONTANA,

Plaintiff and Appellee,

v.

CARL MELVIN ANKENY,

Defendant and Appellant.

FILED

JAN 06 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA


**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Nancy G. Schwartz, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until ~~January 9,~~ ^{February 8,} 2010, in which to prepare, file and serve Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 4th day of January, 2010.

N.G. SCHWARTZ LAW, PLLC
303 North Broadway, Ste. 600
Billings, MT 59101

By:


Nancy G. Schwartz
Attorney for Defendant/Appellant

STATE OF MONTANA)
 : ss
County of Yellowstone)

I, Nancy G. Schwartz, being first duly sworn upon my oath, depose
and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and
am assigned cases as contract counsel by the Office of the State Public
Defender, Appellate Defender Office.

2. In this capacity, I was assigned to represent the Appellant in the
above-entitled matter and a Notice of Appearance was filed on my behalf on
October 19, 2009.

3. I have not yet had the opportunity to review the file and research
possible issues on appeal.

4. Prior to my appointment to represent Mr. Ankeny, appellant's
counsel requested and was granted at least two prior extensions. This is my
third request for an extension. The brief is presently due on January 9, 2010.

5. I cannot meet the present deadline for filing Appellant's opening
brief. I am currently working on appeals in DA 09-0252 and DA 09-0354.
Additional time is necessary to properly research and brief the issues
presented in this case.

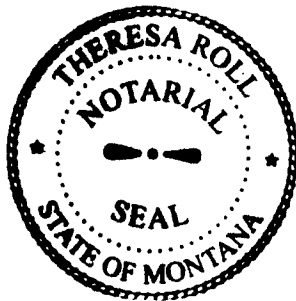
6. Mr. Ankeny is presently incarcerated following his conviction in this matter.

7. I will continue to work diligently to complete the opening brief within the time requested.

8. Opposing counsel has been contacted concerning this motion and does not object.

9. Further your affiant sayeth naught.

SUBSRIED AND SWORN to before me this 4th day of January, 2010.



Theresa Roll

THERESA ROLL

Notary Public for the State of Montana
Residing at Billings, MT

My commission expires: April 19, 2012

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
P.O. Box 59620-1401

JOAN BORNEMAN
Deer Lodge County Attorney
800 South Main
Anaconda, MT 58711-2999

CARL ANKENY 30909
GREAT FALLS REGIONAL PRISON
3800 ULM NORTH FRONTAGE ROAD
GREAT FALLS, MT 59404

Dated: _____

Jan 4 2010

